

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

STACIE NICHOLE DUNN

PLAINTIFF

VS

CIVIL ACTION NO.: 3:15-CV-352-DPJ-FKB

LAUDERDALE COUNTY, AND
WILLIAM D. (BILLY) SOLLIE IN HIS
OFFICIAL CAPACITY AS SHERIFF OF
LAUDERDALE COUNTY, MISSISSIPPI, AND
JOHN DOE DEFENDANTS ONE THROUGH TEN

DEFENDANTS

EXHIBIT 7:

**DEPOSITION (EXCERPT)
OF KEN DELANEY**

Ken Dulaney

January 24, 2017

Page 1

IN THE UNITED STATES COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

STACIE NICHOLE DUNN

PLAINTIFF

VS.

CIVIL ACTION NO. 3:15-CV-352-DPJ-FKB

LAUDERDALE COUNTY, KEN DULANEY,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS A LAUDERDALE COUNTY
SHERIFF'S DEPUTY, AND WILLIAM D. (BILLY)
SOLLIE IN HIS OFFICIAL CAPACITY AS
SHERIFF OF LAUDERDALE COUNTY, MISSISSIPPI
AND JOHN DOE DEFENDANTS ONE THROUGH TEN

DEFENDANTS

ORAL DEPOSITION OF

KEN DULANEY

JANUARY 24, 2017

Volume 1 of 1

ORAL DEPOSITION OF KEN DULANEY, produced as a
witness at the instance of the Plaintiff, and duly sworn,
was taken in the above-styled and -numbered cause on the
24th day of January, 2017, before Megan Reeves, CCR in
and for the State of Mississippi, reported by machine
shorthand, at the offices of Barry, Thaggard, May &
Bailey, LLP, 505 Constitution Avenue, in the City of
Meridian, State of Mississippi.

1 Q Was that offshore or onshore?

2 A Offshore.

3 Q When did you first receive any training
4 toward a law enforcement career?

5 A I'm sure there was some in-service
6 training during that first year. I went to the
7 academy in January of 1993.

8 Q Were you employed in a -- as a law
9 enforcement officer before going to the academy?

10 A Yeah. Because at the time you had
11 12 months from the time you were hired to be in the
12 academy. So I was employed during that time.

13 Q All right. So by what agency?

14 A At that time it was the University Medical
15 Center Police Department, and I believe at the time
16 I was also working part time for Copiah County
17 Sheriff's Office.

18 Q So you were working full time at Noble
19 Drilling and then went to work for the University?

20 A Yes.

21 Q Okay. And contemporaneously you were
22 working part time for the sheriff?

23 A Yeah.

24 Q Okay.

25 A Well, it was -- at some point during that

1 time, it was reserves and then at some point part
2 time.

3 Q Okay. Started out as reserve and then
4 transitioned into being a part-time officer?

5 A I just filled in part time when they
6 needed help.

7 Q Okay. Can you -- do you recall what years
8 you were with the Copiah County -- Copiah County SO?

9 A Not exactly.

10 Q But it --

11 A I went to work for them full time in, I'm
12 thinking, '94.

13 Q Okay. What did -- when did you complete
14 your training at the academy?

15 A I think in March of '93.

16 Q Okay. And what did you do between the
17 time you graduated from the academy and the time you
18 started full time with Copiah Sheriff?

19 A Worked for University.

20 Q Okay. Okay. Who was the sheriff in
21 Copiah at the time?

22 A I'm trying to think if he was still in
23 office. I think at the time I got hired full time,
24 it was Bob Clower.

25 Q Okay. And did you work under another

1 sheriff after Sheriff Clower?

2 A No. When Sheriff Clower lost the
3 election, I went to work for the Vicksburg Police
4 Department.

5 Q Okay. Before we leave the topic of
6 Copiah, what were your duties with the Copiah SO?

7 A I was a road deputy and, I guess you could
8 say, part-time investigator.

9 Q Okay. And when did you go to work for
10 Vicksburg PD?

11 A I want to say it was January of '95.

12 Q In what capacity?

13 A Patrolman.

14 Q Okay. Who was your supervisor at
15 Vicksburg?

16 A My shift commander was Robert -- no. Not
17 Robert. Jack Dowe.

18 Q Dow, D-O-W?

19 A D-O-W-E.

20 Q Okay. And how long were you with
21 Vicksburg?

22 A Until around the first of 2000.

23 Q So nearly five years?

24 A Yeah.

25 Q Were you a patrolman throughout that

1 entire five-year period?

2 A Yes.

3 Q When you left Vicksburg Police Department
4 in 2000, where did you go to work?

5 A Lauderdale County Sheriff's Department.

6 Q Okay. What was your reason for leaving
7 Vicksburg?

8 A A change of jobs, getting out of
9 Vicksburg. I was -- my wife and I had had some
10 problems. We had separated and got back together,
11 and we was trying to make a new start.

12 Q Okay. Okay. And when you started with
13 the Lauderdale County Sheriff, in what -- what were
14 your duties?

15 A Road deputy.

16 Q Okay. How long did you serve as a road
17 deputy?

18 A Promoted to shift supervisor, I think, in
19 2002. I believe that's right.

20 Q Okay.

21 A I worked in that capacity until, I want to
22 say, October of 2004.

23 Q Okay. Where did you go in October of
24 2004?

25 A Interstate interdiction.

1 Q Is that as a deputy?

2 A Yeah. Well, I was a deputy assigned to
3 work interstate drug interdiction, assigned under
4 the East Mississippi Drug Task Force.

5 Q Oh, okay. So did you report to the -- to
6 the commander of the task force?

7 A Yes.

8 Q Okay. Is he called the commander or is he
9 agent in charge, or what do y'all call him?

10 A Commander.

11 Q Commander. Okay. Who was the --

12 A Actually, the major over the task force.

13 Q Who was the major in command at that time?

14 A Steve Spears.

15 Q Okay. At some point didn't you train as a
16 K-9 officer?

17 A Yes.

18 Q When was that?

19 A The first dog, I believe, was in ninety --
20 '95 or '96.

21 Q Okay. So you were --

22 A I'm not sure.

23 Q So you were a K-9 officer before you came
24 to Meridian?

25 A No. I'm sorry. 2005, 2006.

1 Q Oh, okay.

2 A Somewhere around in there.

3 Q Okay. Okay. So you trained as a K-9
4 officer when you were with the interstate
5 interdiction unit?

6 A That's correct.

7 Q Okay. All right. And then did you
8 transition from there into being a regular agent
9 with the task force?

10 A Yes.

11 Q Okay. When approximately was that?

12 A I think it was the end of 2012, I think.

13 Q Okay.

14 A That's approximately. I don't know the --

15 Q I won't hold you to it specifically. I'm
16 just trying to get a -- get a frame of reference.
17 Was Major Spears still in command at that time or
18 did you have a new commander?

19 A I honestly can't remember whether Steve
20 Spears was still there or whether Greg was already
21 the commander.

22 Q Okay. So it was either Major Spears or
23 Major Lea, Greg Lea?

24 A Yes.

25 Q And Greg Lea is L-E-A; isn't it?

1 A Yes.

2 Q Okay. All right. What were your duties
3 and responsibilities as a task force agent?

4 A Once I transferred back to the task force
5 office?

6 Q Yeah.

7 A Narcotics investigator.

8 Q Okay. All right. Now, I'm sure you're
9 aware that the event that we're here to talk about
10 today occurred on October the 2nd, 2013.

11 A Yes.

12 Q Do you recall that?

13 A (Witness nodding head.)

14 Q Okay. Were you serving as a narcotics
15 investigator at that time?

16 A I was.

17 Q Okay. And I understand from talking to
18 the sheriff earlier today that throughout this
19 period of time that you were serving as -- when you
20 were attached to the task force that you also had
21 some duties and responsibilities for firearms
22 training; is that correct?

23 A That's correct.

24 Q Okay. Well, tell me about that, please.

25 A I was a firearms instructor before I left

1 Vicksburg. I came to Lauderdale County and I --
2 shortly after I got here, I was assigned as a
3 firearms instructor here.

4 Q Okay.

5 A Over the course of however many years,
6 I've got, I believe, five integrated law enforcement
7 instructor certifications.

8 Q Okay. Are those annual certifications?

9 A They're every three years.

10 Q Okay.

11 A Well, they renew every three years.

12 Q Okay.

13 A And then within that three years, you
14 have -- I believe it's twenty -- 21 hours,
15 continuing education hours, that can be
16 firearms-related training within that three years.

17 Q Okay.

18 A That renews the --

19 Q Where --

20 A -- certification.

21 Q Oh, excuse me for cutting you off. Where
22 do you -- where did you obtain the 21 hours of
23 continuing education?

24 A It can be any firearms-related school or
25 training.

1 Q Okay. Is it -- can it be within your own
2 agency or do you have to go to a school?

3 A You go to a school.

4 Q Okay.

5 A It's not in-service training.

6 Q Okay. So you --

7 A Part of it -- and part of it was done as
8 they came up for renewal. I just got another NRA
9 instructor school that, in turn, renewed it.

10 Q Okay. So you could use the -- the NRA
11 instructor school to renew could qualify -- could
12 satisfy your 21-year -- 21 hours of continuing --

13 A Yes.

14 Q -- education requirements?

15 A Yes.

16 Q Okay. All right. What other types of
17 courses did you attend -- firearms-related courses
18 did you attend other than NRA classes?

19 A Other than NRA classes? Specifically, I
20 can't remember. I mean, you know, my school is
21 dating back to, I think, 1998, is when I got the
22 first --

23 Q Okay.

24 A -- instructing -- instructor
25 certification.

1 Q But you did go to some not in-service
2 training classes?

3 A Within the -- within those time periods,
4 yes.

5 Q Okay. Do you recall where you went?

6 A Not specifically.

7 Q Or what organization provided the training
8 to you?

9 A Not specifically.

10 Q Okay. What, if any, training did you have
11 with regard to either planning or conducting raids
12 or warrant services?

13 A High-risk raid planning and execution. I
14 believe that was at RTCA, but that's the only one I
15 specifically remember.

16 Q Okay. And that's the Regional Counterdrug
17 Training Academy?

18 A Yes.

19 Q Okay. And do you recall how many hours
20 that was?

21 A I do not.

22 Q Okay. And do you recall approximately
23 when you attended that course?

24 A I don't.

25 Q Okay. With regard to the events that

1 occurred on October the 3rd, 2013, were you involved
2 in any of the intelligence gathering that led to the
3 raid that occurred on that date?

4 A I was not the case agent on the buy and I
5 was not the case agent on the search warrant. Now,
6 did I have some -- some part in the buy, I probably
7 did. I can't remember specifically, but I was not
8 the case agent.

9 Q Okay. Other than the -- other than the
10 controlled buy that occurred a day or so before the
11 raid, was there any intelligence gathered either on
12 the subject of the warrant or on the premises that
13 was to be searched?

14 A Going strictly by memory, and that's
15 three-and-a-half years old, there was an informant
16 that called and provided me some information to
17 relay to Major Greg Lea. For whatever reason, he
18 always called me to get ahold of Greg. I took that
19 information; I passed it on to Major Lea. Past
20 that, I -- I don't remember.

21 Q Is he a -- was he a confidential
22 informant?

23 A Yeah.

24 Q Was he a coded informant?

25 A He was.

1 Q Okay. Is he still a coded informant, as
2 you -- as far as you know?

3 A As far as I know, he is.

4 Q Okay. Do you recall -- I'm not asking you
5 to identify him, but do you know who he was? Could
6 you identify him if a court directed you to?

7 A I know who the informant was. Yes.

8 Q Okay. What information did the informant
9 provide you?

10 A Basically the presence of a firearm inside
11 the residence, and I want to say he said some
12 stolen, or what he believed to be stolen,
13 pharmaceuticals hidden at the residence.

14 Q What, if any, information did you have at
15 the time that led you to deem this confidential
16 informant as a reliable source?

17 A (No response.)

18 Q If you did. Did you deem him to be a
19 reliable source?

20 A I did based on information he had provided
21 in the past.

22 Q How often had he provided information to
23 you in the past?

24 A He was not my informant, and I couldn't
25 give you an accurate answer to that.

1 Q Had he ever provided information to you
2 prior to the events that you've just described to
3 me?

4 A In the same manner, he would call me to
5 get ahold of Greg and I would pass the information
6 to Greg, but specifically I can't remember.

7 Q Okay. I'm not sure I understand. Was
8 this confidential informant calling you and then
9 giving you information that you gave to Major Lea,
10 or was he just calling you and you put him in
11 contact with Major Lea?

12 A He called and -- he had called Major Lea
13 on different occasions. Occasionally, he would call
14 me. He would give me information and I would pass
15 it on to Major Lea. Now, whether he, in turn,
16 contacted the informant back, I don't know that.
17 But he called, this is what he wanted.

18 Q Okay.

19 A I gave him that information. Now, where
20 it went after that...

21 Q Okay. It sounds to me -- and don't let me
22 mischaracterize this -- but am I correct in my
23 assumption that you didn't evaluate the reliability
24 or value of the information that was given to you by
25 the confidential informant?

1 MR. WOLF: I'm going to object to the form
2 of the question. Answer if you can.

3 A I was party to deals that the -- that the
4 informant had completed with Major Lea on previous
5 occasions. So in my -- I had personal knowledge
6 that he had provided information or performed tasks
7 that had proved to be credible.

8 BY MR. MALTA:

9 Q Okay. Had you used him as a -- to make
10 controlled buys in -- prior to October the 2nd,
11 2013, or had the task force, more correctly?

12 A The task force had.

13 Q And you were aware of that?

14 A I was.

15 Q Okay. How often had you -- or are you
16 aware that the force employed that particular
17 confidential informant in that manner?

18 A I would say several times. I couldn't
19 give you an exact number.

20 Q Would several be as many as half a dozen?

21 A I really don't recall.

22 Q Okay.

23 A There again, he was not my informant.

24 Q Okay. Was he a different informant from
25 the informant who was used for the controlled buy on

1 the individual who was the subject of the warrant
2 that's at issue in this lawsuit?

3 A I'm trying to remember who did the -- yes.
4 He was.

5 Q Okay. And I believe I understood you to
6 testify earlier that you were not involved in -- in
7 that particular buy operation; correct? The one
8 than predicated the search warrant.

9 A Sir, I was not the case agent. I'm not
10 going to tell you I wasn't there because I probably
11 was --

12 Q Okay.

13 A -- whether it was just in a security role
14 or whatever. But I was probably there but I was not
15 the case agent.

16 Q Okay. Was there any intelligence gathered
17 by surveillance or any other means on the premises
18 prior to the execution of the search warrant on
19 October the 2nd, 2013?

20 A I know there were -- I believe it was the
21 day of the warrant, and there were pictures taken of
22 the residence, and I was there for that.

23 Q Who took those photographs?

24 A I want to say it was -- I want to say it
25 was myself and Major Lea. Now, who actually took

1 the pictures, I don't recall, but...

2 Q All right. Now, are you talking about the
3 photographs that were taken after the warrant was
4 executed?

5 A No. No. Prior to the warrant being
6 executed.

7 Q Okay. So these were photographs of the
8 exterior of the --

9 A Yes.

10 Q -- building? Okay.

11 A The -- any information coming on the
12 interior of the vehicle -- or interior of the
13 building. The informant that conducted the buy on
14 the previous date provided a layout as best he could
15 of what the inside of the residence looked like. I
16 cannot remember -- because a lot of the places we
17 deal with, officers have been to or in in the past.
18 I can't remember whether that was the case or not,
19 but there was a description of the inside of the
20 residence --

21 Q Okay.

22 A -- provided by the confidential informant
23 that conducted the controlled purchase.

24 Q Was that actually drafted out, diagrammed
25 out?

1 A I believe it was.

2 Q Do you recall who did that?

3 A I don't.

4 Q Do you know if that document still exists?

5 A I do not.

6 Q Do you recall how accurate it was,
7 compared to what you actually found on the ground?

8 A Specifically, I -- I don't remember.

9 Q Okay. What role, if any, did you play in
10 pre-raid planning for the October 2nd, 2013
11 operation?

12 A The planning part? None, I don't believe.

13 Q Okay.

14 A I was at the pre-raid meeting where we sat
15 down, this is who's going, this is what vehicles
16 we're going in, this is the order we're going to
17 enter the house. But as far as the actual planning,
18 no.

19 Q Okay. So the pre-raid meeting you don't
20 really classify as a planning session? It's more of
21 a briefing?

22 A As far as my part of it, it was a
23 briefing. I did not, per se, take place in the
24 actual planning.

25 Q Okay. Okay. And am I fair to conclude

1 that you didn't have any -- you didn't make any of
2 the decisions about how the raid was to be
3 conducted? Is that a fair conclusion?

4 A Outside of general discussion, no.

5 Q Okay. Who did make those determinations?

6 A All of that would have been made above my
7 pay grade, regardless of whether I was the case
8 agent or -- I mean, it would have been a -- we
9 discussed the situation. Now, whether the sheriff,
10 the chief deputy, the major, I assume hashed those
11 details out as to exactly how we're going to carry
12 it out.

13 Q Okay. What role was assigned to you with
14 respect to the raid itself?

15 A Entry.

16 Q Okay. So you were going to be part of the
17 entry team?

18 A Yes.

19 Q How many people were on the entry team?

20 A I can't remember exactly. Probably five.
21 But, there again, I'm operating solely off of a
22 three-and-a-half-year-old memory. I'm sure probably
23 in my statement to MBI, when it was all fresh in my
24 mind, it may be more accurate as to how many people
25 were actually on the entry team. I can't remember.

1 Q That's fair. Did you follow any standard
2 procedures, though -- did the entry team follow
3 standard procedures?

4 A Can you clarify the question?

5 Q Were there certain things that the entry
6 team did any time you executed a high-risk search
7 warrant?

8 A I'm sure there were a lot of things we did
9 any time we operated -- you're going to have to be
10 more specific with the question.

11 Q Okay. Okay. Where on the entry team did
12 you serve? Which entrance to the building were you
13 assigned to and what position were you assigned to?

14 A I was -- went to the front door, and I
15 think I was probably -- and there again, my -- my
16 statement right after the fact is, I'm sure, more
17 accurate than my memory. I'm thinking three or
18 four.

19 Q You were in the third or fourth position
20 going through the door?

21 A I'm thinking that's right.

22 Q By what mechanism did you -- was the door
23 forced?

24 A Rammed.

25 Q Okay. Who wielded the ram?

1 A To the -- to the best of my recollection,
2 I'm thinking it would have been Daniel Boyd; but,
3 there again, I'm sure my statement is more accurate
4 than my memory.

5 Q What's the protocol for the ram man? Does
6 he knock the door in? Does he then go in the door
7 or does he stand aside?

8 A He would have stood aside.

9 Q Okay. So he's not counted as number one;
10 right?

11 A He's not the first man through the door,
12 no.

13 Q Okay.

14 A But for the purposes of where I'm at in
15 line going to the house, he would have been in the
16 lead.

17 Q I gotcha. Do you recall who the first man
18 through the door was?

19 A I don't.

20 Q What is your recollection of what your
21 assignment was once the front door of the building
22 was breeched? What were you supposed to do?

23 A Go through the common area of the house.
24 It would have been a bedroom immediately to the
25 right inside the door, to the best of my

1 recollection. A common area just past that first
2 bedroom was what we'll call a hallway. That was the
3 area I was going to.

4 Q Okay. So the bedroom that was to your
5 immediate right when you went through the door was
6 not your area of responsibility?

7 A No.

8 Q Okay. Do you recall who was --

9 A No.

10 Q -- responsible for that area?

11 A I don't.

12 Q Okay. So after you -- after the common
13 area was deemed clear, you proceeded through the
14 common area and down a hall?

15 A As I proceeded through the door, we
16 encountered -- I don't know how many people --
17 numerous people in the common area of the house.

18 Q Okay.

19 A There was an agent there ordering them to
20 the ground. I paused just long enough to see that
21 they were complying. I proceeded on to that short
22 hallway area, and what was taking place behind me, I
23 don't know.

24 Q Okay. That was not your responsibility to
25 take those people down?

1 A No.

2 Q Okay. All right. So as I understand it,
3 you went to a hallway that was essentially directly
4 in front of you from the front door?

5 A It would have been past the first bedroom
6 and to the right.

7 Q Okay. And the first bedroom is the one
8 that you previously described as being on the right?

9 A Yes.

10 Q Okay.

11 A Well, it would have been -- you go through
12 the front door, there would have been a doorway to
13 the right. Just past it is -- we're calling that a
14 hallway. It's actually very short. Then to what
15 ended up being a bedroom and a bathroom.

16 Q All right. How are your drawing skills?

17 A Not very good.

18 Q Would you mind diagramming it out for me?
19 Just do your -- do your best.

20 A If you would have wanted a diagram the day
21 after it happened, I may could have done it; but
22 three-and-a-half years later, I don't know how
23 accurate my memory is.

24 (Witness drawing.) There's some
25 stuff back here (indicating), I think, but I don't

1 remember.

2 Q Okay. If you will -- thank you for -- I'm
3 sorry to put you on the spot like that -- like this,
4 but it's helpful to me. Would you mark the front
5 door for me, and you can just use an "A" or a "1,"
6 whatever you're comfortable doing.

7 A (Witness complying.)

8 Q Okay. You've marked the front door, then,
9 with a "1." Okay.

10 A Yeah.

11 Q And then show me the front bedroom that
12 you were describing.

13 A This would have been a doorway on the
14 right (indicating).

15 Q Okay. And just mark that front bedroom
16 with a "2," then.

17 A Uh-huh. (Witness complying.)

18 Q Would you mark it with a "2," please?

19 A I did.

20 Q Oh, I'm sorry. I didn't -- okay. And so
21 you marked the doorway to the second bedroom with a
22 "2"?

23 A Yeah.

24 Q Okay. And then did you draw the hall that
25 you were describing earlier, the short little

1 hallway?

2 A Yes.

3 Q And -- okay. Would you mark it with a
4 "3."

5 A (Witness complying.)

6 Q Okay. And then the door at the end of the
7 hallway, is that the door to the room where my
8 client was asleep?

9 A No.

10 Q Okay. Show me the door that went to the
11 room where my client was asleep.

12 A (Witness drawing.)

13 Q Okay. What did you just mark that with?

14 A "5."

15 Q A "5." Okay.

16 A This is "4."

17 Q Okay. What is "4," then?

18 A It's a small bathroom.

19 Q Okay. All right. So "1" is the front
20 door, "2" is the doorway to the first bedroom, "3"
21 is the short hallway, "4" is the bathroom, and "5"
22 is the doorway to the bedroom where my client was
23 located.

24 A This doorway is actually -- that door is
25 actually kind of recessed, to the best of my --

1 Q Okay.

2 A -- recollection.

3 Q Okay. All right. Do you recall -- did
4 you have a pretty clear understanding that that's
5 where you were headed before you went into the
6 building, or were you just generally supposed to go
7 in that direction and clear that part of the house?

8 A It's -- we came through the door. There
9 should have been somebody ahead of me that would
10 have taken the first doorway to the right. Somebody
11 would have cleared this common living area here
12 (indicating). I would have proceeded on to the next
13 opening (indicating).

14 Q Okay. All right. Were you -- was anybody
15 assigned to go with you on the duty to clear the
16 openings to the right?

17 A There may have very well been, but all of
18 this stuff is happening in a matter of seconds.

19 Q Yes, sir.

20 A And it's all fluid. The best laid plans
21 change as you encounter stuff within the house.

22 Q Okay. Okay. As a practical matter,
23 did -- was there another agent with you?

24 A There was a -- there was another agent
25 that came behind me at some point, but I think he

1 held up --

2 Q Okay.

3 A -- briefly in this common living area
4 (indicating).

5 Q Okay. Who was that?

6 A I think it was Agent Mercado.

7 Q Okay. Macada?

8 A Mercado.

9 Q Mercado. Okay. Thank you. And -- okay.
10 Did you check the bathroom door?

11 A Yes.

12 Q Was it opened or closed?

13 A To the best of my recollection, it was
14 opened.

15 Q Okay.

16 A But looking into this doorway
17 (indicating), I want to say as you enter the doorway
18 to the left, there was a bathtub set back to the
19 left, maybe a sink or something on the other side.
20 I can't remember. I could see straight into the
21 doorway, but to clear the whole bathroom, I
22 physically had to go through the door, clear the
23 bathtub area, come back out.

24 Q Okay. And you did that before you went to
25 the doorway that you've marked as Area Number 5 on

1 your chart?

2 A That's correct.

3 Q Okay. On your diagram, I mean. Okay.

4 All right.

5 MR. MALTA: Do either of you have an
6 objection to marking this as an exhibit?

7 MR. WOLF: No.

8 MR. THAGGARD: No.

9 MR. MALTA: Okay.

10 (Exhibit 2 was marked.)

11 BY MR. MALTA:

12 Q All right, Agent Dulaney. After you
13 assured yourself that the -- the bathroom was
14 cleared; right?

15 A It was.

16 Q Okay. After you assured yourself that no
17 one was in the bathroom, to where did you turn your
18 attention?

19 A Back to this doorway (indicating).

20 Q Okay. And you're indicating on diagram --
21 or excuse me. On Exhibit Number 2, you're
22 indicating the doorway that you've marked as
23 Number 5?

24 A That's correct.

25 Q Okay. And where was Agent Mercado at the

1 point that you refocused your attention on Doorway
2 Number 5?

3 A He was not there. I'm assuming he was
4 still in the common area of the living room.

5 Q Okay. Was there -- were there any agents
6 in your immediate area?

7 A No.

8 Q Okay. All right. Did you test the
9 doorway number -- that you've marked as Number 5?

10 A Test it as...

11 Q Did you try to open it?

12 A I checked -- trying to be quiet, I tried
13 to check to see if it was locked. I believed it to
14 be locked.

15 Q Okay. What led you to believe it was
16 locked?

17 A That -- I turned the doorknob and it
18 didn't move.

19 Q Okay. Did you announce yourself?

20 A We kicked the front door. We were
21 announcing ourself all the way through the house.

22 Q Okay. Did you announce yourself?

23 A I'm sure I did.

24 Q Okay. But you don't recall specifically?

25 A I'm sure I announced myself. Yes.

1 Q Okay. In what manner did you commonly
2 announce yourself?

3 A Sheriff's office.

4 Q Okay. Okay. And -- all right. When you
5 found the door closed -- Door Number 5, we're going
6 to -- I'm going to call it, if you don't mind --
7 what did you do?

8 A I kicked the door open.

9 Q Okay. All right. We'll come back to
10 that. Let me ask you about your weapon.

11 A Okay.

12 Q What kind of -- what kind of firearm were
13 you carrying that day?

14 A A Glock 21.

15 Q Okay. I've heard it described as a
16 Generation 1. Is that -- is that a fair
17 description?

18 A I don't believe it would have been a
19 Gen 1.

20 Q What was it, then?

21 A I believe -- I want to say it was a Gen 3.

22 Q Okay. What caliber weapon is that?

23 A Forty-five ACP.

24 Q Okay. And that's a semiautomatic pistol?

25 A Yes.

1 Q Okay. How long did you carry that
2 particular weapon?

3 A Probably six years.

4 Q Okay.

5 A Somewhere thereabouts.

6 Q Okay. So you probably first trained on
7 the Glock 21 in 2005 or '06?

8 A All right. Are you talking about that
9 particular weapon or that particular model weapon?

10 Q Well, actually your -- thank you for
11 correcting me, because I did ask you about that
12 particular weapon. Let me -- let me ask you about
13 that -- that type of weapon. When did you first
14 become familiar with and train on a Glock 21?

15 A In 2000.

16 Q Okay. And when did you start carrying
17 Glock 21s?

18 A In 2000.

19 Q Okay. So you had carried a Glock 21 for
20 about 13 years at the time of this raid?

21 A Yes.

22 Q Okay. And you had carried this particular
23 weapon that was involved in the shooting for how
24 long?

25 A Maybe six years.

1 Q Okay. All right. And had that weapon
2 been modified?

3 A No.

4 Q Okay. Had the weapon been inspected?

5 A It was periodically inspected.

6 Q Who inspected it?

7 A At which time? I --

8 Q Well, when you say "it was periodically
9 inspected," what would -- under what periods of
10 time? Was there a -- was there a -- was there
11 specific -- was there a specific time frame in which
12 the weapon was supposed to be inspected?

13 A I don't recall. And as accreditation
14 changed things and policy changes, I mean, it could
15 have changed. I really don't recall.

16 Q Okay.

17 A But an armorer -- an armorer would have
18 inspected it.

19 Q Okay.

20 A The last person that inspected it, I
21 think, was Lieutenant Ruston Russell, I believe.

22 Q Approximately when would that have
23 occurred?

24 A I don't recall.

25 Q When you say the last person who inspected

1 it, that would be the last time preceding the
2 incident that occurred on October the 2nd, 2013?

3 A I can't remember if that was right before
4 or right after, but the last departmental weapon
5 inspection that I can remember going to, I believe
6 Lieutenant Russell inspected it. Now, exactly when
7 that was, I can't tell you.

8 Q Okay. Do you recall any other
9 departmental weapons inspections other than that
10 one?

11 A Sure. But I can't tell you who -- who did
12 them.

13 Q Okay. Should there be documentation of
14 those inspections?

15 A There is an inspection form.

16 Q Okay. How often did you have to
17 periodically certify on the Glock 21?

18 A You're talking about qualifications?

19 Q Yes. To qualify.

20 A Twice a year.

21 Q Okay. And were you current on October the
22 2nd, 2013, as far as you recall?

23 A Yes.

24 Q Okay. And where had you qualified? On
25 the -- on the sheriff's range?

1 A Yes.

2 Q Okay.

3 A Or wherever we were holding departmental
4 qualifications at the time. Sometimes that was at
5 Sandflat and sometimes at Modern Outfitters.

6 Q Okay. What was the policy or what was the
7 protocol that you were supposed to follow with
8 regard to safety, to safely handle your weapon
9 during a high-risk -- during the service of a
10 high-risk search warrant?

11 A Can you be more specific with the
12 question?

13 Q Sure. Does that particular weapon have a
14 safety catch?

15 A A external manual safety, no.

16 Q Okay.

17 A Internal safety mechanisms, yes.

18 Q What is -- describe the internal safety
19 mechanism that's featured on that weapon for me,
20 please.

21 A I'm not a firearms engineer. I'm telling
22 you there are safety mechanisms engineered into the
23 firearm. It does not have a external safety
24 mechanism.

25 Q Okay. What's your understanding of how

1 the internal safety mechanism works? What does it
2 do? Does it make the trigger harder to pull or what
3 does it do?

4 A There is a lever on the front of the
5 trigger that allows the trigger to move rearward
6 and -- there again, I'm not a firearms engineer.

7 A -- I want to say a firing pin safety block.

8 Q Okay. All right. So since there's no
9 safety catch on the weapon, what -- how are you
10 supposed to handle the weapon when you're executing
11 a high-risk search warrant?

12 A The firearm would have been in my hand, my
13 finger indexed along the side of the frame and the
14 muzzle pointed in the safest direction possible.

15 Q Okay. And when you describe your finger
16 being indexed along the frame of the weapon, that's
17 your trigger finger?

18 A Yes.

19 Q On your dominant hand?

20 A Yes.

21 Q What's your dominant hand?

22 A Right.

23 Q Okay. The trigger finger of your right
24 hand. And that would be outside the trigger guard;
25 correct?

1 A Yes.

2 Q Okay. And what's your understanding of
3 the protocol for handling the weapon on -- in the
4 type of circumstances that you've been describing to
5 me, with regard to how many hands you use? Are you
6 supposed to use two hands if you can?

7 A If -- we're taught to shoot one-handed.
8 We're taught to shoot with both hands.

9 Q Is there a preference?

10 A Depending on the situation.

11 Q Is there a -- is there a training -- are
12 you trained that it's preferable to do one or the
13 other, unless the situation dictates otherwise?

14 A Unless the situation dictates otherwise, I
15 generally shoot two-handed, if that answers your
16 question; but we're taught to shoot either
17 one-handed or two-handed.

18 Q That answers my question. As I understand
19 it, your preference is, if you can, you want to use
20 both hands?

21 A Yes.

22 Q Okay. And is it fair for me to say that
23 that's true for most officers? Don't most officers
24 want to use two hands, unless there's some reason
25 not to?

1 MR. THAGGARD: Object to form.

2 BY MR. MALTA:

3 Q In your experience.

4 MR. THAGGARD: Same objection.

5 BY MR. MALTA:

6 Q You can answer the question.

7 A I would say, in my experience, officers
8 generally shoot two-handed unless they are otherwise
9 occupied.

10 Q Okay. Unless there's a reason not to; is
11 that fair?

12 A Or unless they're instructed not to.

13 Q Okay. All right. You didn't receive any
14 instructions on how to hold or use your weapon on
15 October the 2nd, 2013, did you?

16 MR. WOLF: Object to the form. It's sort
17 of a vague question.

18 MR. MALTA: Okay. I'll --

19 MR. WOLF: Are you talking about that
20 night, were you given additional instructions?
21 That sort of --

22 MR. MALTA: Let me -- let me rephrase the
23 question.

24 MR. WOLF: Yeah.

25

1 BY MR. MALTA:

2 Q On October the 2nd, 2013, you were relying
3 on training that you had received. You didn't
4 receive any specific instructions that day, "Okay,
5 Agent Dulaney. This is the way you're to hold your
6 gun." You didn't --

7 A No.

8 Q Nobody told you anything like that; did
9 they?

10 A No.

11 Q Okay. You're relying on your training up
12 to that point; correct?

13 A Yes.

14 Q Okay. And as you've entered the building
15 as you've already described, and you've already
16 taken us through your going into the building and
17 through the front common area and into the short
18 hallway, how do you recall you were holding your
19 weapon?

20 A At what point?

21 Q Throughout that period of time.

22 A I would say probably at -- with both hands
23 at a ready gun until I came to that doorway.
24 Obviously, if I checked the door to see if it was
25 locked, at some point it was in one hand. I was

1 using the other hand to check the door.

2 Q Do you recall which?

3 A No. I don't. When I kicked the door and
4 started through, I don't recall.

5 Q Okay. So did you kind of back up to
6 execute the kick on the door? Do you remember?

7 A I don't.

8 Q Okay. When you did kick the door, do you
9 recall how you were holding the weapon at the time
10 you kicked the door?

11 A I don't.

12 Q Okay. What does your training dictate?
13 How are you supposed to hold your weapon when you're
14 forcing a door in that manner?

15 A Generally, when I -- if I was going to
16 kick the door, the gun would be down to my side
17 (demonstrating), pointed straight down toward the
18 floor, as I was kicking the door.

19 Q Okay. And you're -- you're indicating
20 with your body that you're holding it in one hand,
21 in your dominant hand, down along your right -- the
22 side of your right hip?

23 A I would -- there again, I don't remember
24 exactly what I did.

25 Q Yeah. My question isn't -- I understand

1 you don't remember and I'm not criticizing you for
2 that. My question is: What would you normally do?
3 And I understand you to say that you would normally
4 hold the gun in your right hand, facing the floor
5 down along your right hip; is that accurate?

6 A Yes. And my reasoning would have been as
7 I come up and kicked the door, if I've got the gun
8 up here, now the gun is pointed at --

9 Q At you.

10 A -- that either/or leg.

11 Q I understand. Okay. I understand.
12 And -- all right. So you don't recall what hand or
13 if what -- if you had the gun in both hands at the
14 time you kicked the door?

15 A Just -- I just said that when -- as I
16 kicked the door, the gun probably would have been in
17 my right hand to my right side.

18 Q Okay. All right. And pointing down at
19 that point?

20 A Yeah.

21 Q Okay. All right. And then after you
22 kicked the door open, what, if anything, did you do
23 with your hands?

24 A I'm sure I would have came back up to
25 proceed through the doorway (demonstrating).

1 Q Okay. And you're indicating that you
2 would have come back up -- brought your gun back up
3 to chest level or thereabouts in both hands?

4 A Yes.

5 Q Is that what you think happened?

6 A There again, I don't remember this.

7 Q Okay. Do you recall talking to the
8 investigating officers and the sheriff separately
9 about switching hands?

10 A I really don't.

11 Q Okay.

12 A And this is -- there again, this is all
13 happening in a matter of seconds. And I'm trying to
14 process in my mind right after all -- everything
15 there happened, with everything running together,
16 I -- I may have said something about switching
17 hands, may not. I don't recall. I may have swapped
18 hands to check the door and then swapped back. I
19 don't recall.

20 Q The gun discharged because you pulled the
21 trigger; right? Is that correct?

22 MR. WOLF: Object to the form.

23 BY MR. MALTA:

24 Q Why did the gun discharge?

25 A I would say the gun discharged because the

1 trigger was depressed.

2 Q Okay. And you depressed the trigger;
3 right?

4 A Unintentionally, yes.

5 Q Okay. And I'm not saying that you did it
6 intentionally.

7 A Okay.

8 Q I'm just asking, it was your finger that
9 pressed the trigger; correct?

10 A That would be correct.

11 Q Okay. And would it have been your regular
12 right index finger or do you recall?

13 A It would have probably been my regular
14 right index finger.

15 Q Okay. All right. And how do you account
16 for your regular right index finger traveling from
17 outside the trigger guard inside the trigger guard
18 to pull the trigger?

19 A As I was going through the doorway, I hung
20 my foot in the threshold of the doorway.

21 Q Okay.

22 A I stumbled forward. I did not fall. I
23 lost -- I did not fall to the ground. I lost my
24 balance. My only account for it is that it is a
25 sympathetic response of the body, as you start to

1 fall, to try to catch yourself or to clench.

2 Q Okay. All right. So you're thinking that
3 as a sympathetic response, you clenched your right
4 hand and the -- and your finger engaged the trigger?

5 A You -- I don't know. That is my only
6 thinking in my mind that's what caused it.

7 Q Okay. I'm just wondering if your -- if
8 your finger was where it was supposed to be, indexed
9 along the frame of the weapon outside of the trigger
10 guard, if you had a involuntary sympathetic response
11 and clenched your finger, wouldn't it clench on the
12 outside of the trigger guard?

13 A Don't know.

14 Q I mean, that's what the trigger guard is
15 for, correct, is to -- is to prevent an accidental
16 discharge; is that correct?

17 A I would say that would be correct.

18 Q Okay. So your memory today is that you
19 don't recollect, as you were going through the door,
20 switching gun hands; is that right?

21 A No.

22 Q Okay. What did you see in the room as you
23 kicked open the door?

24 A The room was very dimly lit. I think I
25 heard MBI say, after the fact, there may have been a

1 black light on in the room. I don't remember.

2 There was a -- to the best of my recollection, more
3 or less an open area to the left. There was a bed
4 turned, it seems like, at an angle inside the
5 doorway. The room was fairly small. But as far as
6 Ms. Dunn, I never perceived her to be there.

7 Q Okay. And is it also fair for me to
8 conclude that you didn't perceive any specific
9 threat from the bedroom when you kicked in the door?

10 A I didn't perceive a -- outside of the
11 inherent threat of running the high-risk warrant, as
12 far as her in particular, I did not even perceive
13 her to be in the room. Therefore, no, I cannot
14 perceive a threat from her. I never saw her.

15 Q Okay. All right. So you weren't
16 responding to a sudden movement or any other kind of
17 threat like that. You just -- you just fell?

18 A I never perceived her to be there until
19 after the discharge.

20 Q Okay.

21 A And then I could not physically see her.
22 All I could see was the bedding on the cover start
23 to come -- the cover on the bedding start to come
24 forward.

25 Q Okay. At what point did you realize you

1 had shot her?

2 A Not until after I had placed her in
3 handcuffs. After the discharge, after I saw the
4 movement, I immediately went to her, tried to make
5 sure she wasn't injured. I checked her as quickly
6 as I could inside the room. I didn't see any
7 physical injury. I asked her if she was all right.
8 I believe she said, "My hand is cramping." She was
9 already in handcuffs at that time. I checked her
10 again, tried to make sure she wasn't injured. I did
11 feel a little bit of blood on my hand. Once I saw
12 that, I immediately took her out the front door of
13 the residence. Major -- or excuse me -- Chief
14 Deputy Calhoun was standing in the yard. I went
15 straight to him, explained to him what happened. He
16 immediately called an ambulance, and within just a
17 couple of minutes the ambulance was there.

18 Q Okay. Did you place Ms. Dunn in handcuffs
19 in front of her back or -- I mean, in front of
20 her -- in front of her torso or behind her back?

21 A Behind her back.

22 Q Okay. And when did you realize that she
23 had been shot?

24 A Like I said, I -- I checked her as soon as
25 I got her up, made sure I didn't see any blood or

1 anything. I didn't see any, put her in handcuffs.

2 She again said something about her hand cramping. I

3 checked her again, as best I could in that -- in

4 that room. I still couldn't actually see a wound,

5 but I did have blood on my hand.

6 Q Okay.

7 A At that point I carried her straight out

8 the door.

9 Q Okay. So at the time you found blood on
10 your hand, did you -- you knew she had been wounded?

11 A Yes.

12 Q Okay. Okay.

13 A Or I assumed she had been wounded.

14 Q Okay. Okay. I've noticed in the
15 deposition today that your right middle finger seems
16 to be bent. Is that a -- when did -- is that as a
17 result of an injury?

18 A Yes.

19 Q When did that occur?

20 A 2007 maybe.

21 Q Okay. Is that -- so I'm assuming that's a
22 permanent --

23 A It is.

24 Q That finger is, like, frozen in a
25 permanent position? Is it a --

1 A Well, it will move.

2 Q Okay.

3 A It only has limited movement
4 (demonstrating).

5 Q Okay. Does the limited movement in your
6 middle finger -- and I understand that's not your
7 trigger finger, but it is your dominant hand; right?

8 A Yes.

9 Q Does it affect your ability to hold a
10 sidearm?

11 A No.

12 Q Okay.

13 A Actually, it's just the opposite. If I
14 had it fixed, it would be fused straight, which
15 would interfere with my ability --

16 Q Okay.

17 A -- to grab and hold a firearm. As it is,
18 that's where your hand normally ends up anyway
19 (demonstrating). So, no, it doesn't.

20 Q Okay. So you don't think that that --
21 that that condition contributed to cause the
22 incident that we're talking about today?

23 A No.

24 Q Okay. After this negligent discharge that
25 you described, what became of the firearm?

Ken Dulaney

January 24, 2017

Page 56

1 A It was taken from me on the scene by --
2 excuse me -- by Major Greg Lea. Where it went from
3 there, I'm assuming it went to MBI.

4 Q Mississippi Bureau of Investigations?

5 A Yeah.

6 Q Okay. Did you ever see the gun again?

7 A Yes. It -- I can't remember how long it
8 was gone. For a period of time. I assume they
9 brought it back to the sheriff's department and it
10 was reissued back to me.

11 Q Okay. And then you carried it in-service
12 again for some period of time?

13 A Yes.

14 Q Okay. And then at what point -- let me
15 strike that and ask you this. I understand from
16 talking to your attorney that the gun did not belong
17 to you, as it sometimes does in some agencies, but
18 that it was a true department-issued firearm; is
19 that true?

20 A It was.

21 Q Okay. And at what point was that firearm
22 turned back in to the department?

23 A As far as a date, I couldn't tell you. I
24 believe --

25 Q Can you approximate for me?

1 A I really can't. Probably, I would say,
2 over a year ago.

3 Q Over a year what?

4 A Ago.

5 Q A year ago from now?

6 A I would -- there again, I don't remember
7 specifically.

8 Q Okay.

9 A I know the department changed out their
10 arsenal weapons. The old weapons were traded in to
11 whoever they bought the new weapons from. And once
12 I turned it back into the department, I assume it
13 went to whoever bought them.

14 Q Okay. So that weapon was exchanged for
15 another one, as far as you understand it?

16 A Yes.

17 Q Okay.

18 A Traded in on.

19 Q Okay. What was the new weapon that was
20 issued to you?

21 A My Glock 21.

22 Q And --

23 A Gen 4.

24 Q I'm sorry?

25 A Gen 4.

1 Q A Gen 4. Okay.

2 All right. Were you offered an
3 opportunity to buy the old Gen 3?

4 A I was.

5 Q And you declined that opportunity?

6 A I did.

7 Q Okay. So as far as you know, it's gone
8 back to the distributor?

9 A Yes.

10 Q Okay. Did you ever see any documentation
11 of any inspection of the weapon conducted by MBI?

12 A I did not.

13 Q Okay. I understand that the weapon might
14 have gone to the crime lab. Did you ever see any
15 crime lab report related to an assessment or
16 inspection of the weapon?

17 A I didn't.

18 Q Okay. Did anybody ever tell you that it
19 was inspected by the crime lab?

20 A No.

21 Q Okay.

22 A I just assumed that it -- there again,
23 that's my assumption. Now, when it was taken from
24 me, it went to MBI and they -- they did some sort of
25 inspection on it. I don't know.

Ken Dulaney

January 24, 2017

Page 72

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

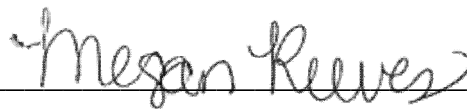
REPORTER'S CERTIFICATION
DEPOSITION OF KEN DULANEY
JANUARY 24, 2017

I, Megan Reeves, CCR, Court Reporter and Notary at Large in and for the State of Mississippi, do hereby certify that the foregoing pages, and including this page, contain a true and correct transcript of the testimony of the witness, as taken by me at the time and place heretofore stated in the aforementioned matter, by machine shorthand with electronic verification, with assistance of computer-aided transcription, to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer all questions in this matter under the authority vested in me by the State of Mississippi.

I further certify that I am not in the employ of, or related to, any counsel or party in this matter, and have no interest, monetary or otherwise, in the final outcome of this proceeding.

Witness my seal and signature on this 7th day of February, 2017.





Megan Reeves, CCR
Notary Public
My Commission Expires: 2-5-2018
Bowers Court Reporting, LLC
4521 Poplar Springs Drive
Meridian, Mississippi 39305

Mailing Address:
Post Office Box 3095
Meridian, Mississippi 39303
(601) 693-6677